

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE ENROLLED ACT No. 4

AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 26-1-9-114 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 114. (1) A person who delivers goods under a consignment which is not a security interest and who would be required to file under IC 26-1-9 by IC 26-1-2-326(3)(c) has priority over a secured party who is or becomes a creditor of the consignee and who would have a perfected security interest in the goods if they were the property of the consignee, and also has priority with respect to identifiable cash proceeds received on or before delivery of the goods to a buyer, if:

- (a) the consignor complies with the filing provision of IC 26-1-2 with respect to consignments (IC 26-1-2-326(3)(c)) before the consignee receives possession of the goods; and
- (b) the consignor gives notification in writing to the holder of the security interest if the holder has filed a financing statement covering the same types of goods before the date of the filing made by the consignor; and
- (c) the holder of the security interest receives the notification within five (5) years before the consignee receives possession of the goods; and
- (d) the notification states that the consignor expects to deliver



C
O
P
Y

goods on consignment to the consignee, describing the goods by item or type.

(2) In the case of a consignment which is not a security interest and in which the requirements of subsection (1) have not been met, a person who delivers goods to another is subordinate to a person who would have a perfected security interest in the goods if they were the property of the debtor.

(3) In the case of a consignment of a motor vehicle (as defined in IC 9-13-2-105) that has a value over five hundred dollars (\$500), if the consignor is not a merchant (as defined in IC 26-1-2-104), the consignee shall:

- (a) notify the consignor of the filing requirements of this chapter;**
- (b) provide the consignor with the form required by this chapter that serves as notice to third parties of the consignor's interest in the motor vehicle; and**
- (c) obtain the consignor's signature on the consignment contract on a separate signatory line from the contract signatory line acknowledging that the consignor has:**
 - (i) received notification of the filing requirements of this chapter; and**
 - (ii) received the necessary form from the consignee to perfect the filing under this chapter;**

unless the consignee conducting the business is generally known by the consignee's creditors to be substantially engaged in selling the goods of others.

SECTION 2. IC 26-1-9-402 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 402. (1) Except as provided in subsection (2), a financing statement is sufficient if it is on the form prescribed by the secretary of state and contains the following:

- (a) The debtor's legal name and address.
- (b) The name and address of the secured party from which information concerning the security interest may be obtained.
- (c) A statement indicating the types or describing the items of collateral.
- (d) The debtor's signature.

A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5), or



when the financing statement is filed as a fixture filing (IC 26-1-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (4).

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in any one (1) of the following:

- (a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances.
- (b) Proceeds under IC 26-1-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.
- (c) Collateral as to which the filing has lapsed.
- (d) Collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection (6)).
- (e) Collateral under a security agreement signed by the debtor and authorizing the secured party to file a financing statement. Such a financing statement must state that it is filed in accordance with a security agreement signed by the debtor and authorizing the filing of the statement.

(3) A financing statement may be amended by filing a form (Uniform Commercial Code 3 or Uniform Commercial Code 4) referencing the original financing statement number and date of filing. An amendment that changes only the secured party information must be signed by the secured party. All other amendments must be signed by the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In IC 26-1-9, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(4) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5) or a financing statement filed as a fixture filing (IC 26-1-9-313) must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage



under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(5) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

- (a) the goods are described in the mortgage by item or type; and
- (b) the goods are or are to become fixtures related to the real estate described in the mortgage;
- (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and
- (d) the mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(6) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity, or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(7) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(8) The provisions of IC 36-2-11-15 requiring the identification of draftsmen of instruments transferring interests in real estate do not apply to filings under IC 26-1.

(9) A financing statement may be transmitted and filed electronically. A signature requirement under this section is satisfied by:

- (A) an intent by the filing party to sign the filing under IC 26-1-1-201(39); and**
- (B) the entry of the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.**

C
o
p
y

